

**INFORMATION DISCLOSURE STATEMENT**

Applicant respectfully requests that the Examiner give full consideration to the items listed in the Information Disclosure Statement submitted February 1, 1999. The Examiner contends that "the non-patent materials on those pages 2-10 are only directed toward intrusion detection systems *per se* and not direct [*sic*] towards the pending filed claims, that is a manner, a system for dynamically distributing updates of a program (version) in a network *per se*." Office Action, p. 2. Yet, one embodiment of the present invention is "[a]n intrusion detection system" as claimed by Claim 22. Therefore, any disclosure relating to intrusion detection systems *per se* is proper and should be considered. Furthermore, several non-patent documents in the IDS relate to distributed networking and distributed recognition and, therefore, are also proper. See MPEP § 609.

**OFFICIAL NOTICE**

Applicant thanks the Examiner for providing references in response to Applicant's seasonal traversal of Examiner's Official Notice as described in MPEP § 2144.03.

**REMARKS**

This Application has been carefully reviewed in light of the Advisory Action mailed October 16, 2001. Claims 9-13, 22-24, and 27 remain pending at the time of the Advisory Action. Applicant respectfully requests reconsideration and favorable action in this case.

Claims 9-13, 22-24, and 27 stand rejected under U.S.C. § 103 in view of U.S. Patent No. 5,008,814 issued to Mathur ("*Mathur*") and U.S. Patent No. 5,754,785 issued to Lysik, *et al* ("*Lysik*"). Applicant respectfully traverses this rejection for at least the following reasons.

Amended Claim 9 recites, in part, "automatically installing a downloaded update to generate a second version of the program" and "automatically determining whether the second version of the program is operating correctly." Furthermore, amended Claim 9 recites "in response to incorrect operation of the second version, automatically restoring the first version of the program for operation at the network site."

The Examiner does not rely upon *Lysik*, nor does *Lysik* teach or suggest these elements of amended Claim 9. *Mathur* does not teach or suggest these elements of amended Claim 9. The

Examiner asserts that *Mathur* teaches “restoring the original software (first version), in response to incorrect operation of the updated software (second version)”. Office Action, p. 3. However, *Mathur* includes an operator element. For example, *Mathur* states that after the software is updated, “[t]he trial use is initiated when *the operator* issues a ‘cutover’ command to a master task.” *Mathur*, c. 12, ll. 10-12 (emphasis added). *Mathur* further states “a cutback process which restores a node to an ‘old’ software version when a trial use fails. *The cutback process is initiated by an operator command...*” *Mathur*, c. 12, ll. 36-39 (emphasis added). *Mathur* also states “[i]f *the operator decides to abort* the softload process, the master task at the operator node N<sub>0</sub> will issue an abort request...” *Mathur*, c. 9, l. 67 – c. 10, l. 1 (emphasis added). In contrast, amended Claim 9 recites “in response to incorrect operation of the second version, *automatically* restoring the first version of the program for operation at the network site” (emphasis added). Therefore, neither *Mathur* nor *Lysik*, alone or in combination, teach or suggest every element of amended Claim 9.

Additionally, *Mathur* would teach away from “automatically installing a downloaded update to generate a second version of the program”, as recited by amended Claim 9, because *Mathur* is directed to an operator initiated installation. See *Mathur*, c. 12, ll. 10-12. One skilled in the art would not look to a reference that teaches an operator-dependent process to determine how to automate installing a downloaded update.

Therefore, Applicant respectfully requests the Examiner to reconsider and withdraw the rejection for Claim 9.

Amended Claim 10 recites “automatically distributing the downloaded update to a disparate network site operating the first version of the program.” Amended Claim 10 further recites “automatically installing the downloaded update to generate the second version of the program at the disparate network site.”

The Examiner does not rely upon *Lysik*, nor does *Lysik* teach or suggest these elements of amended Claim 10. *Mathur* does not teach or suggest these elements of amended Claim 10. Instead, *Mathur* teaches away from amended Claim 10. *Mathur* states that “[a]dvantageously, the distribution is initiated by a ‘distribution command’ which is *entered by an operator at an input/output device* in one of the nodes...” *Mathur*, c. 4, l. 66 – c. 5, l. 3 (emphasis added). Not

only is a distribution command required, it is a command that must be entered by an operator. To this end, *Mathur* states that “the communication of a new system software version from a source node  $N_s$  to a destination node  $N_d$  ... is initiated by an operator command.” *Mathur*, c. 11, ll. 16-19. *Mathur* further states the updated software is installed at disparate nodes when “[t]he update process is initiated by an operator command...” *Mathur*, c. 12, ll. 66-67. Nowhere does *Mathur* disclose “*automatically* distributing the downloaded update to a disparate network site operating the first version of the program” as recited by amended Claim 10 (emphasis added). Thus, neither *Mathur* nor *Lysik*, alone or in combination, teach or suggest every element of amended Claim 10.

Therefore, Applicant respectfully requests the Examiner to reconsider and withdraw the rejection for Claim 10. Furthermore, amended independent Claims 11, 12, and 22 are patentable for at least the reasons discussed above in association with Claim 10. Thus, Applicant respectfully requests allowance of independent Claims 11, 12, and 22.

Dependent Claim 26 depends from dependent Claim 13, which depends from independent Claim 12. Also, dependent Claims 23 and 24 depend from independent Claim 22. Claims 10, Claims 11, 12, and 22 are shown above to be allowable over the cited references. Thus, dependent Claims 13, 23, 24, and 26 are allowable over the cited references as depending from an allowable base claim and including further distinctions over the cited references. For at least these reasons, Applicant respectfully requests allowance of dependent Claims 13, 23, 24, and 26.

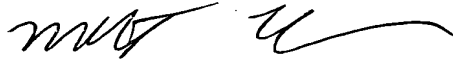
**CONCLUSION**

Applicant has made an earnest attempt to place this case in condition for allowance. For the foregoing reasons and for other reasons clearly apparent, Applicant respectfully requests reconsideration and full allowance of all pending claims.

In order to expedite the prosecution of this case, the undersigned attorney for Applicant invites the Examiner to call at the telephone number listed below if there is a need to clarify any outstanding issues.

The fee of \$740.00 to satisfy the Request for Continued Examination fee of 37 C.F.R. § 1.17(e) is enclosed. The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to Deposit Account 02-0384 of Baker Botts L.L.P.

Respectfully submitted,  
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**APPENDIX "A"**  
**MARKED-UP VERSION OF THE CLAIMS**

WHAT IS CLAIMED IS:

1. **(Previously cancelled without prejudice or disclaimer)**
2. **(Previously cancelled without prejudice or disclaimer)**
3. **(Previously cancelled without prejudice or disclaimer)**
4. **(Previously cancelled without prejudice or disclaimer)**
5. **(Previously cancelled without prejudice or disclaimer)**
6. **(Previously cancelled without prejudice or disclaimer)**
7. **(Previously cancelled without prejudice or disclaimer)**
8. **(Previously cancelled without prejudice or disclaimer)**

9. (Amended) A method for updating a first version of a program operating at a network site, comprising:

in response to an automated event, automatically downloading from a remote site any update for the program;

automatically installing a downloaded update to generate a second version of the program;

after installation of the downloaded update, automatically determining whether the second version of the program is operating correctly;

in response to correct operation of the second version, operating the second version of the program in place of the first version at the network site; and

in response to incorrect operation of the second version, automatically restoring the first version of the program for operation at the network site.

10. **(Amended)** A method for updating a first version of a program operating at a network site, comprising:

in response to an automated event, automatically downloading from a remote site any update for the program;

installing a downloaded update to generate a second version of the program; and

operating the second version of the program in place of the first version at the network site;

**automatically** distributing the downloaded update to a disparate network site operating the first version of the program;

**automatically** installing the downloaded update to generate the second version of the program at the disparate network site; and

operating the second version of the program in place of the first version at the disparate network site.

11. (Amended) A method for updating a first version of a program operating at a network site, comprising:

in response to an automated event, automatically downloading from a remote site any update for the program;

installing a downloaded update to generate a second version of the program;

after installation of the downloaded update, automatically determining whether the second version of the program is operating correctly at the network site;

in response to incorrect operation of the second version, automatically restoring the first version of the program for operation at the network site; and

in response to correct operation of the second version at the network site:

automatically distributing the downloaded update to a disparate network site operating the first version of the program;

automatically installing the downloaded update to generate the second version of the program at the disparate network site; and

operating the second version of the program in place of the first version at the disparate network site.



12. **(Amended)** A method for updating a first version of a program operating at a network site, comprising:

in response to an automated event, automatically downloading from a remote site any update for the program;

**automatically** installing a downloaded update to generate a second version of the program; and

operating the second version of the program in place of the first version at the network site;

broadcasting over a network an update message;

receiving in response to the update message a request for the downloaded update from each of a plurality of disparate network sites operating the first version of the program;

**automatically** distributing the downloaded update to the disparate network sites requesting the downloaded update;

**automatically** installing the downloaded update to generate the second version of the program at each of the disparate network sites; and

operating the second version of the program in place of the first version at each of the disparate network sites.

13. The method of Claim 12, further comprising:  
receiving a recovery event at one of the network sites;  
automatically restoring the first version of the program at the network site at which the recovery event was received;

broadcasting a recovery message from the network site over the network; and  
automatically restoring the first version of the program at each of the remaining network sites operating the second version of the program.

14. **(Previously cancelled without prejudice or disclaimer)**

15. **(Previously cancelled without prejudice or disclaimer)**

16. **(Previously cancelled without prejudice or disclaimer)**

17. **(Previously cancelled without prejudice or disclaimer)**

18. (Previously cancelled without prejudice or disclaimer)
19. (Previously cancelled without prejudice or disclaimer)
20. (Previously cancelled without prejudice or disclaimer)
21. (Previously cancelled without prejudice or disclaimer)
22. (Amended) An intrusion detection system, comprising:  
a private network including a plurality of sites connected to a public network, each site including an intrusion detection sensor operating with a first set of intrusion detection signatures; and  
each of the intrusion detection sensors operable to automatically download from a remote site any update for the intrusion detection signatures in response to a specified event, to automatically install a downloaded update to generate a second set of intrusion detection signatures, to operate with the second set of intrusion detection signatures, and to automatically distribute the downloaded update to the remaining intrusion detection sensors for installation.
23. The system of Claim 22, wherein the specified event is an automated event.
24. The system of Claim 23, wherein the automated event is a timed event.
25. (Previously cancelled without prejudice or disclaimer)
26. The method of Claim 13 wherein the recovery event occurs in response to incorrect operation of the intrusion detection program.